

LAST EDITION.

TUESDAY EVENING.

TOPEKA, KANSAS, FEBRUARY 5, 1907.

TUESDAY EVENING.

TWO CENTS.

DEFENSE BEGINS.

An Allenist From Pittsburg the First Witness.

Testifies That in His Opinion Thaw Was Insane.

When He Shot Stanford White in June Last Year.

HE RELIES ON WOMEN.

Thaw Bases Hope of Acquittal on the Testimony.

To Be Given in Court by His Wife and Mother.

TO PROVE INSANITY.

The Elder Woman Will Reveal Family History.

The Younger Is Expected to Tell a Startling Story.

New York, Feb. 5.—The defense of Harry K. Thaw charged with the murder of Stanford White, was begun today, when Dr. C. C. Wiley, an alienist from Pittsburg, took the stand and testified that in his opinion Thaw was insane on the night of the Madison Square roof garden tragedy. He based this opinion on the man's actions on the roof garden and the fact that he had witnessed an act by Thaw in a Pittsburg street car which impressed him with the belief that the young man was not of sound mentality.

District Attorney Jerome put the witness through the most severe cross examination ever heard in a New York court room. The prosecuting attorney seemed to have every medical authority at his finger tips. The care with which he had prepared to meet Thaw's plea of insanity was evident in his every question and at times the witness hesitated in his answers as if completely baffled.

Dr. Wiley was still under fire when the luncheon was ordered.

"Are you nearly through?" inquired Justice Fitzgerald of the district attorney.

"No, indeed, your honor," replied Mr. Jerome, "am just getting interested in the subject."

Testimony in Defense.

New York, Feb. 5.—Experts on insanity and in handwriting, witnesses and jurors came to the Thaw trial today muffled in great coats and furs, a storm which began last night continuing with unabated fury today.

The order for the exclusion of all witnesses with the exception of Mrs. Harry Thaw and Mrs. William Thaw from the court room remained in force today with the result that the second row of four chairs just back of the prisoner, which heretofore have been reserved for his family, had been turned over to those whose business gave them the privilege of attending the trial.

Josiah Thaw was the only member of the defendant's family in court as the morning session began.

Harry Thaw on entering seemed to miss the smile of welcome which each morning previously his wife had bestowed upon him.

District Attorney Jerome was late in arriving and the opening of the session was delayed to minutes.

Dr. C. C. Wiley of Pittsburg, the Thaw family physician, and who is connected with the Dixmont insane asylum, was called as the first witness for the defense.

Dr. Wiley in response to questions by Attorney Gleason, said he had devoted much of his life to a study of insanity and had served as an expert in a large number of cases.

Dr. Wiley was asked to state his recollection of an incident in 1905 in which Harry K. Thaw was concerned.

"In the summer of 1905," said the witness, "I was a passenger on a street car of the Fifth avenue line in Pittsburg, when Harry Thaw came in."

"Without any apparent reason," Thaw rushed for one of the blinds to a window, drew up the blind, slammed it down again and then drew it up once more. He had a quarrel with the conductor."

"What was Thaw's manner?"

"It was defiant, vague, and his eyes flashed from this way to that way," Dr. Wiley illustrated with his eyes.

"As an expert and from your personal observation can you say whether his actions were rational or irrational?"

"Irrational."

A Hypothetical Question.

Mr. Gleason here formed a hypothetical question on which he outlined Thaw's act of killing Stanford White on the Madison Square Roof Garden, and coupled with it the interrogation as to whether the witness could express an opinion of such an action committed by the person he saw in the Pittsburg street car.

The hypothetical question in full was as follows:

"Assuming, sir, that the man you saw in the street car last summer was proved to you, as an expert, to have attended a roof garden on the day of June 25, 1906, the occasion of the opening of a theatrical entertainment which was largely attended, and that he was walking out from the theater, with his wife, near him and apparently in a quiet and orderly manner, that that man should turn aside and fire three shots from a revolver into a man who was sitting at the table, and to whom he did not speak; that this man then held the pistol above his head and walked quietly toward the elevator; that he gave up the pistol without resistance and did not make any attempt to escape, and that he said: 'He ruined my wife' and that immediately thereafter he said to his wife: 'I have probably saved your life.' I ask you, sir, your honest judgment as an expert whether you are able to give an opinion touching on the sanity of the man who made that answer?"

"I can," said Dr. Wiley.

"Will you express that opinion?"

"I believe that man—"

District Attorney Jerome objected.

"You must not state a belief," said

Mr. Jerome, "that is not evidence. You must give an opinion."

"My opinion," said Dr. Wiley, "is that the man who committed the act described was suffering from insanity."

The witness was asked to define hereditary insanity, which he did but when a question by Mr. Gleason as to the influence of hereditary insanity was asked it was objected to by Mr. Jerome.

Dr. Wiley said that in hereditary insanity, the common blood would flow through brothers and therefore a cousin, the son of an uncle of the defendant might follow the same hereditary influence.

"Are you acquainted as you sit there with the form of insanity which the law of this state defines as excuse for crime?" asked Mr. Jerome.

"Then your opinion on the hypothetical question you have answered was given as a scientific man."

"Yes, in my mind the various forms of mental aberration which scientific men meet together and discuss."

"Yes, and from my own explanation of the medical knowledge on the subject."

"Are you an expert?"

Mr. Jerome then asked the witness if he really considered himself an expert.

"I feel that I have had experience."

"That is not the point," interrupted Mr. Jerome. "Are you an expert?"

"We don't know whether you are or not."

"I think I am competent."

"Are you an expert?" shouted Jerome.

"I am an authority," Dr. Wiley replied.

During the testimony of Dr. Wiley, Thaw sat taking notes and conversing constantly with Mr. Peabody of his counsel. The defendant was pale to death yesterday and seemed much distressed.

After Dr. Wiley had said he was an authority he was asked by Mr. Jerome if he was willing to go on record before the world in this case as a scientific man, after merely witnessing Thaw's action on the street car in Pittsburg, and from a description of his killing of Stanford White, as saying Thaw was insane.

Dr. Wiley replied with decision: "Yes."

Asked by Mr. Gleason if in his opinion the defendant at the time of the deed knew that it was murder, the witness replied "yes," and started an explanation which was stopped quickly by Mr. Jerome.

Mr. Gleason then asked the witness, who had answered in a manner intended to help the defense, when the question was again put to him, he answered "no."

Dr. Wiley here explained that a person might know that he was doing and yet be utterly in the control of an irresistible impulse.

"In other words," commented Mr. Jerome, "we have a sort of volitional insanity?"

"That is possible, coupled with a morbid impulse."

"An act is morbid if it is insane?"

"Yes."

Jerome Bears Down.

"And a man may know the nature and quality of his act, know that it is wrong and against the law and yet be unable to control his impulse."

"Yes, by an impulse over which he has no control."

"What evidence of delusion was there in the hypothetical question put to you by counsel for defendant?" asked Mr. Jerome.

The witness started to answer.

"Wait a moment," commanded the district attorney. "Give us the substance of the hypothetical question on which you based so important an opinion in this case."

In repeating the question, the witness inadvertently admitted that he had taken into consideration his knowledge of the case outside of the question.

"Then you did not base your opinion entirely upon the question?"

"Not entirely. I based it on what I saw in Pittsburg and what I know of the case."

"I move that the entire question and answer be stricken out," said Mr. Jerome turning to Justice Fitzgerald.

Justice Fitzgerald has transposed the confidence of the law by taking into account outside considerations.

Counsel for the defense objected but Justice Fitzgerald said he thought it best to let the question stand and go over again so as to make the record clear.

Attorney Gleason reformed the hypothetical question, this time basing it on the law of insanity as laid down by the statutes of the state of New York.

Dr. Wiley again declared that he was competent to answer the question.

"What is your opinion based on the form of insanity as laid down by the law of this state?" questioned Mr. Jerome.

"The act was that of an insane man."

Witness Is Endangered.

Mr. Jerome led the witness through a long series of questions dealing with all manner of subjects and asking him his opinion as an expert of most of these. The district attorney's purpose to break up as far as possible the doctor's influence with the jury was apparent.

"Are you a mythologist?" asked Mr. Jerome.

"No."

"Have you studied the subject?"

"Not extensively."

"As a matter of fact do you know what mythology is?"

"Yes."

"Is mythology an act, or a direct action?"

be right but their premises may be wrong."

A Wordy Clash.

This line of questioning soon led to a wordy clash between attorney and witness in which Mr. Jerome interrupted the witness' replies with a loudly exclaimed:

"Did I ask you that? Did I? Answer me."

"No," witness confessed.

"Upon what in the hypothetical question did you base your conclusion as to insanity?"

"By the fact that the man, sitting with a party, suddenly arose and without provocation, in the question about provocation?" Jerome interposed.

"Did I not reply with a show of feeling?"

"It was the manner of the man," the witness went on, "and the fact that he raised his hand as a peculiar way."

"Stop," shouted Mr. Jerome angrily. "Is there anything in the question about peculiarity?"

The witness hesitated, then admitted there was not.

He again took up the line of his deductions of hypothetical question.

"The man to his wife, 'I have probably saved your life,' was another reason for the conclusion."

"Did it not occur to you that after firing three bullets into the body of his victim the man held his revolver aloft to indicate that his deed was done, that there was to be no further killing and that he wanted to avert a panic on the roof garden where there were hundreds of women and children?"

"Did I motive have no bearing?"

"Yes, I read in the papers and I decided."

"Stop! Did the question of motive make so light an impression in your mind that when you come here to testify as a scientific man you want to import into the case what you read in the newspapers?"

Witness Is Stumped.

The witness was silent.

"Did not this man raise his hand and his revolver to indicate that there was to be no further killing?"

"Possibly, but as I was saying—"

"I will please refrain from volunteering information for which I do not ask?" corrected Mr. Jerome.

"Answer my question and nothing else. I have had to ask this many times and don't want to have to do it again."

"When did you get here?" asked Mr. Jerome.

"Wednesday."

"And you talked with counsel?"

"Yes, about the case."

"About the hypothetical question?"

"No."

The witness fairly shouted the answer. He also flushed angrily.

Thaw sat apparently unperturbed throughout the grilling of the witness by the district attorney. He kept his head bowed as he made notes on sheets of paper, lifting his eyes now and then to look at Dr. Wiley.

"Is not jealousy the dominant element in the mind of every man who kills from jealousy?" asked Mr. Jerome.

Jerome may be other elements.

"Stop that volunteering and answer my question. Tell us some more of your conclusions from the hypothetical question?"

"The time, the manner and the place chosen."

"No," shouted the district attorney. "The time, the manner and the place chosen for the crime, do you?"

"No, my argument is that it was not chosen."

"Do you want your argument, keep it out of this. What is your opinion—was the place chosen?"

"No."

Insists on Insanity.

"Now, to make sure, do you think that because this man with malice and hatred of the man he saw on the roof garden, walked over to him and fired three bullets into his body, with the revolver held so close that the face was burned by the powder—do you think that was an act of insanity?"

"Yes."

"Then the killing of any person in a jealous rage is per se, an act of insanity?"

"Yes."

Mr. Jerome took the witness over every incident of the night of the tragedy and asked him if in each case he thought Thaw's acts were those of an insane man. The witness finally summed up his answers as follows:

"Taken alone, they do not impress me; but taken together, they do."

"We have gone over the entire case," said Mr. Jerome. Now tell me, did you arrive at your opinion that Thaw was insane from the facts of that night alone?"

After a discussion relating to merits of opinions and impressions during which he was again asked to task by the district attorney, Dr. Wiley said the tragedy had not wholly convinced him.

He then was asked if his opinion as to the insanity of the prisoner was based on the occurrences on the roof garden, Dr. Wiley answered that it was.

"And after reading the newspapers," suggested the district attorney. The witness hesitated.

(Continued on Page Six.)

CURTIS SOLVES IT

Would Have President Dig Panama Canal.

His Ambition to Complete the Great Water Way.

IS ON A SEA LEVEL.

Earthquake Makes Lock Canal Impractical.

Gives Public Insight Into Roosevelt's Desires.

Washington, Feb. 5.—Senator Curtis is convinced that President Roosevelt has an ambition to build the Panama canal after his term of office has expired. The junior senator from Kansas confided to a Washington paper the observations and conclusions which follow:

"While the president is not to be considered in the connection with another nomination owing to his repeated declaration that he would not again be a candidate, it must not be taken for granted that he will retire from active political life. In my opinion the president has an ambition somewhat larger than a desire for another term. I believe he would like to step from the White House to the head of the Panama canal. In my opinion he is the one man in the country to carry to a successful completion the building of that great waterway. He is more familiar with the world wide enterprise than any other man in the United States. His recent message on the Panama canal demonstrates that fact. I feel that that great feat of engineering, the Panama canal, will be the work of the century, the nearest his heart. And I believe that he would welcome nothing with greater enthusiasm than the opportunity to be placed at the head of that great work. Just think of it for a moment."

"What does a term in the White House compare to the glory and renown of such an achievement of linking the Atlantic and the Pacific ocean? It will be a monument to the man who superintends the construction of the canal that will last to the end of time. It will make his name famous throughout the world. And who is better fitted than President Roosevelt for this all important task? He has the energy, the indomitable will for overcoming every obstacle, the integrity, the enthusiasm and the perseverance. Of all our presidents there are only two names that are household words—Washington and Lincoln. Washington is the representative of the first epoch in our history, and Lincoln the second. The third epoch will be the completion of the Panama canal. The first step of the beginning was under Roosevelt, and I believe the completion of the canal will be under the direction of his guiding hand."

"I know he is charged with being impulsive and at times reckless, but a close scrutiny into his acts reveals an inherent honesty and lofty character that carries with it a conviction that his sole purpose has been for the welfare of the country. These traits of character that make him pre-eminently the man to build the canal. I am sure that if the president would accept the responsibility of carrying on the work of building the canal, the country, as in one voice, would call on him at the close of his administration to take up the work. And would it not be a great office to bestow on the retiring president?"

"Already I have heard the suggestion that the president is the only man to build the canal, and I will say that the suggestion meets with my hearty approval. And you may add that, in my opinion, the recent earthquake at Kingston makes it necessary to build a sea-level instead of a lock canal."

Washington, Feb. 5.—For more than 24 hours New York has been in the grip of a fierce northeast snowstorm. Ten inches of snow fell in the 24 hours ending at 8 a. m., equalling the amount within any similar period for several years.

In Broadway and all the avenues and cross streets containing surface car lines the snow was piled six feet high between the car tracks and the sidewalks, but by hard work with snow shovels most of the surface lines were kept in operation, though at a snail's pace. Most of the elevated lines in Manhattan were run on their usual schedules this morning, but those in remote sections of Brooklyn were badly delayed.

Through trains and suburban locals on nearly all the railroads were greatly delayed. Harbor traffic moved very slowly.

An army of snow shovelers estimated at 5,000, was at work on the streets today.

Highland Light, Mass., Feb. 5.—The worst storm of the winter prevailed here today, a gale of 50 miles an hour with a thick snow lying up all traffic on land and sea.

Boston, Feb. 5.—The general traffic of Boston is seriously hampered by the snowstorm which developed last night and continued today. Traffic is badly broken into by the snow.

New Haven, Conn., Feb. 5.—The wild snowstorm which began late yesterday afternoon and continued today with steadily increasing fury, had a disastrous effect on traffic both on the steam lines and trolley roads all over the state. Not for several winters have steam roads been so tied up as they were today.

Oklahoma City, Ok., Feb. 5.—Last night proved the coldest of the season, the thermometer registering nine below zero. It is partly cloudy with a light northwest wind. Rising temperature is predicted.

St. Paul, Feb. 5.—The street thermometers today registered from 22 to 32 below zero, according to the exposure of the instrument.

Chatham, Mass., Feb. 5.—A blinding snow storm driven by a 60 mile an hour northeast gale is making wild weather conditions on this coast. Until observation can be taken, it will be learned of the fate of the shipping which left Boston yesterday bound south around Cape Cod.

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5,000 SHOVELERS

An Army of Men Are Digging New York From Drifts.

The Storm Is General Throughout the Country.

WORST OF THE WINTER

Gale of 60 Miles an Hour on Massachusetts Coast.

Thermometers Register 32 Below Zero at St. Paul.

Monarch, Colo., Is Overwhelmed in the Night.

Salida, Colo., Feb. 5.—Eight persons were killed and fourteen injured, two of whom are expected to die, in the snow slide which came down Monarch mountain in Monarch, a mining camp 18 miles west of Salida, at 3:30 o'clock last night. The slide wrecked three buildings and partly demolished a fourth.

At 9 o'clock today the dead bodies of the following had been recovered from beneath the great masses of snow and broken timbers:

FRED MASON, owner of boarding house.

MRS. FRED MASON.

JOSEPH BOYLE, miner, Denver.

JOHN EMERSON, miner, Denver.

JOHN MILLER, miner, Monarch.